AMERICAN BAR ASSOCIATION

ADOPTED BY THE HOUSE OF DELEGATES
AUGUST 11-12, 2025

RESOLUTION

RESOLVED, That the American Bar Association urges state, local, territorial, and tribal governments that impose sales, use, or similar taxes on menstrual discharge collection devices ("MDCDs") to repeal those taxes;

FURTHER RESOLVED, That the American Bar Association urges Congress to pass legislation to prohibit sales, use, or similar taxes imposed by state, local, territorial, and tribal governments on MDCDs; and

FURTHER RESOLVED, That the American Bar Association urges all foreign jurisdictions to adopt legislation and to pursue policies and measures that prohibit sales, use, or similar taxes on MDCDs.

507

REPORT

The ABA has long recognized the importance of efforts to promote and protect access to quality health care and to protect the rights of all people.[1] Items that collect menstrual flow, often referred to as "menstrual products", are necessary health care devices for about half of the population. These products, which were renamed "menstrual discharge collection devices," or "MDCDs" by the Streamlined Sales Tax Governing Board in February 2024,[2] include tampons, menstrual pads, liners, cups, discs, underwear, and any other item designed to absorb menstrual flow. Although MDCDs are the sine qua non of participation in everyday life by all who menstruate, 19 states still impose sales or similar taxes on them, while exempting other products, typically as either necessities or medical items. Outside the United States, most countries impose Value Added Taxes (VATs) on these products at rates as high as 27% in the case of Hungary, and 25% in other countries in the European Union.[3] This Resolution urges the repeal of those taxes.

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[1] *See, e.g.*, Resolution 90M108 (reaffirming the importance of quality healthcare access for all Americans); Resolution 4M105 (same); Resolution 84M103A (arguing for increased attention by the legal profession to issues impacting children and their rights); Resolution 09A10A (supporting federal legislation that would ensure every American access to quality health care regardless of the person's income); Resolution 19A115A (urging Congress to ensure that the health care delivered by the Indian Health Service is exempt from government shutdowns and federal budget sequestrations on par with the exemptions provided to the Veterans Health Administration); Resolution 24A504 (urging Congress to repeal the Comstock Act of 1873); and Resolution 24A505 (urging the enactment of laws and policies that increase access to confidential prenatal, peripartum and postpartum care). *See also* Resolutions 72A19 (urging U.S. law schools not to discriminate on the basis of gender); 21A511 and 78M101A (supporting legislation that prohibits employment discrimination on the basis of pregnancy); 80A109A (supporting legislation that prohibits gender-based discrimination in public accommodations); 72M56, 74A135, 16M10B, and 24A601 (supporting the passage of the Equal Rights Amendment); Resolution 20A116C (opposing federal, state, local, territorial and tribal legislation, regulation, and agency policy that discriminates against transgender and non-binary people on the basis of gender identity and/or that imposes barriers to obtaining or providing medically necessary care to affirm an individual's gender identity). *See generally* Michael D. Sandler, *American Bar Association Section of International Law and Practice and the Standing Committee on World Order Under Law Reports to the House of Delegates*, 30 INT'L LAW. 867, 876, 897–904 (1996) (setting forth in Appendix C a five-page list of ABA Resolutions designed "to eliminate discrimination on the basis of status, both gender-based discrimination and discrimination based on other immutable characteristics").

[2] *See, e.g.*, Laura Strausfeld, *This "Cringy" Term is Helping Defeat the Tampon Tax*, WASH. POST (Feb. 22, 2024, 6:45 AM), https://www.washingtonpost.com/opinions/2024/02/22/tampon-name-tax (explaining the use of the term "menstrual discharge collection devices" to refer to MDCDs). For information about the Streamlined Sales Tax Governing Board, *see* https://www.streamlinedsalestax.org/. Because some of the most recently introduced repeal legislation uses the new term, it is used here as well. *See, e.g.*, S.B. No. 173, 124th Gen. Assemb., 1st Reg. Sess. (Ind. 2025); H.B. 122, 2025 Gen. Assemb., Reg. Sess. (Ky. 2025); H.B. 123, 2025 Gen. Assemb., Reg. Sess. (Ky. 2025); H.B. 649, 2025 Gen. Assemb., Reg. Sess. (Ky. 2025).

[3] *See, e.g.*, Zero-Rate Tax/Tax Exemption, Periodtax.org, https://periodtax.org/map.html; Kay Wicker, *Period Poverty Impacts People All Over the World: These Women of Color Are Working to End It,* https://thegrio.com/2024/05/29/period-poverty-impacts-people-all-over-the-world-these-women-of-color-are-working-to-end-it/ (hereafter, "*Period Poverty")*; Josephine Campbell, *Tampon Tax,* EBSCO, https://www.ebsco.com/research-starters/social-sciences-and-humanities/tampon-tax (2024); May 29, 2024; Diana Baptista, *What is the Tampon Tax and Which Countries Have Axed It?*, REUTERS (May 24, 2023), https://www.reuters.com/article/markets/commodities/what-is-the-tampon-tax-and-which-countries-have-axed-it-idUSL1N33O24Z/ [hereinafter *What is the Tampon Tax*].

Consistent with its longstanding support of protecting access to health care, the House of Delegates recently affirmed the importance of access to MDCDs by adopting Resolution 21M105, which urges bar examination authorities to allow examinees to bring MDCDs into the bar exam.[4] Eliminating sales, use, or similar taxes on MDCDs would reduce the cost of such products, thereby increasing their accessibility and thus advancing ABA policies that promote and protect access to quality health care.

This Resolution seeks to advance ABA Goal 3—Eliminate Bias and Enhance Diversity—and Goal 4—Advance the Rule of Law—by supporting laws that protect human rights and promote a fair legal process. Eliminating sales, use, and similar taxes on MDCDs will make the tax law more equitable by removing levies that are disproportionately borne by those who menstruate and by helping to reduce what has come to be known as "period poverty," which can disproportionately affect communities of color, as further described in Section III, *infra*.

I. EXECUTIVE SUMMARY

A basic aspect of human rights is ensuring access to essential health-related products, including MDCDs. Affordability is an integral part of access. Without MDCDs, it is difficult, if not impossible, for those who menstruate to go to school or work or otherwise participate in everyday life. The inability to access and use MDCDs influences the physical, mental, social, and economic health of approximately half the population.[5] Therefore, to achieve the goals of protecting human rights and ensuring access to quality health care as well as freedom from discrimination, it is crucial to take steps that make MDCDs more affordable—and, therefore, more accessible—to anyone who needs them.

Historically, cultural attitudes have stigmatized menstruation as shameful and private, preventing open discussions about "period poverty," meaning, among other things, lack

[4] The ABA has also acknowledged the unique needs of those who lactate, who are likely to also menstruate, by adopting a resolution encouraging "federal, state, local, territorial, and tribal legislatures and court systems, in conjunction with state and local bar associations, to support and assist with the establishment and maintenance of lactation areas in courthouses for members of the public, including lawyers, jurors, litigants, witnesses, and observers." Resolution 19M101A.

[5] *See, e.g.*, *Menstrual Cycle: What's Normal, What's Not*, MAYO CLINIC (Apr. 22, 2023), https://www.mayoclinic.org/healthy-lifestyle/womens-health/in-depth/menstrual-cycle/art-20047186 [https://perma.cc/E2CK-3W62] ("Menstrual bleeding might happen every 21 to 35 days and last 2 to 7 days"); AM. COLL. OBSTETRICIANS & GYNECOLOGISTS, THE MENSTRUAL CYCLE: MENSTRUATION, OVULATION, AND HOW PREGNANCY OCCURS (2022), https://www.acog.org/-/media/project/acog/acogorg/womens-health/files/infographics/menstrualcycle-print-013122.pdf [https://perma.cc/PLZ2-ZCCM]; *Your Menstrual Cycle*, OFF. ON WOMEN'S HEALTH, U.S. DEP'T OF HEALTH & HUM. SERVS., https://www.womenshealth.gov/menstrual-cycle/your-menstrual-cycle [https://perma.cc/UBS6-HZLQ] (last updated Feb. 22, 2021).

of access to MDCDs.[6] Nonetheless (and perhaps because of stigma), period poverty is a serious and ongoing problem that demands attention and action.[7]

Tax law can reduce period poverty by making MDCDs more affordable. Historically, governments have used tax law not only to raise revenue but also to support fundamental rights and alleviate various financial burdens.[8] Tax systems also play an essential role in providing relief to individuals and families facing economic hardship.[9] For example, many states do not impose sales taxes on food. The ABA has supported numerous measures that enhance social justice in tax systems, including measures that increase public confidence in state tax systems,[10] minimize adverse impacts on families' economic well-being,[11] and increase equity.[12] Just last year, the ABA continued this trajectory by adopting Resolution 23A507, urging governments to amend existing laws and/or enact new laws to provide financial support through the tax system to tenants of rental housing. Supporting the repeal of sales taxes on MDCDs by domestic jurisdictions that impose them and encouraging the federal government as well as the governments of all foreign jurisdictions to support repeal efforts comports with the foregoing ABA resolutions and amplifies their impact.

Because sales, use, and similar taxes are almost invariably flat-rate taxes, their burden falls most heavily on those with the least ability to pay. It is uniformly recognized that such taxes are regressive; they impose proportionately greater burdens on individuals at the lower end of the income distribution.[13] In the case of sales, use, and similar taxes on MDCDs, regressivity is exacerbated by the fact that women are disproportionately represented among low-income earners.[14] Such taxes are thus easily understood as

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[6] *See* BRIDGET J. CRAWFORD & EMILY GOLD WALDMAN, MENSTRUATION MATTERS: CHALLENGING THE LAW'S SILENCE ON PERIODS 17–25, 59–85 (2022) [hereinafter MENSTRUATION MATTERS]; Bridget J. Crawford & Emily Gold Waldman, *Period Poverty in a Pandemic: Harnessing Law to Achieve Menstrual Equity*, 98 WASH. U. L. REV. 1569, 1572 (2021) [hereinafter *Period Poverty*] (defining period poverty and describing its increased visibility during the COVID-19 pandemic).

[7] *See* MENSTRUATION MATTERS, *supra* note 6, at 13–17.

[8] *See, e.g.*, *Taxes & Government Revenue*, WORLD BANK GRP., https://www.worldbank.org/en/topic/taxes-and-government-revenue (last updated Apr. 20, 2024) (explaining that tax revenue allows governments to "resume economic growth, reduce poverty, and support climate action," among other functions).

[9] *See, e.g.*, *The Anti-Poverty and Income-Boosting Impacts of the Enhanced CTC*, WHITE HOUSE (Nov. 20, 2023), https://www.whitehouse.gov/cea/written-materials/2023/11/20/the-anti-poverty-and-income-boosting-impacts-of-the-enhanced-ctc/.

[10] *See* Garland Allen & Craig B. Fields, *The ABA Model State Administrative Tax Tribunal Act: Why We Need to Change How States Decide Tax Cases*, 2009/10 STATE & LOC. TAX L. 295.

[11] *See, e.g.*, ABA Resolution 18A102 (opposing repeal of the federal income tax deduction for alimony paid). *See also* David V. Diggs et al., *Repeal of Alimony Tax Deduction in the TCJA*, 2019 TRIAL REP. (SPECIAL ISSUE) (MD.) 28 (discussing the rationale for Resolution 18A102).

[12] *See* Resolution 19A106 (urging employers of lawyers to implement and maintain policies and practices to address and close the compensation gap between similarly situated men and women lawyers).

[13] *See, e.g.*, JEROME R. HELLERSTEIN & WALTER HELLERSTEIN, STATE TAXATION § 12.03 (3d ed. 2024) (after examining both sides of the argument, concluding that "[i]n the end, the consensus remains that sales taxes are regressive"); Jorene Ooi, *Bleeding Women Dry: Tampon Taxes and Menstrual Inequity*, 113 NW. U. L. REV. 109, 113 (2018).

[14] *See* Gloria Guzman & Melissa Kollar, *Income in the United States: 2022 (Table A-7)*, U.S. CENSUS BUREAU (Sept. 12, 2023), https://www.census.gov/data/tables/2023/demo/income-poverty/p60-279.html (to

contributing to period poverty.[15] Indeed, period poverty is prevalent in vulnerable communities. For example, a study of low-income women in St. Louis, Missouri, found that nearly two-thirds of those surveyed had been unable to afford MDCDs at some point during the previous year.[16]

Period poverty has significant societal costs, including absenteeism by secondary school students. A recent study of one thousand menstruating teens in the United States demonstrates the connection between the affordability of MDCDs and school absenteeism: fully 20% of the respondents reported struggling to afford MDCDs or not being able to afford them at all, 25% said they had missed class because of a lack of access to MDCDs, and 84% said that they had either missed class time or known someone who missed class time because of a lack of access to MDCDs.[17] Two-thirds also said that they had felt stress due to a lack of access to MDCDs, and 61% reported wearing a tampon or pad for more than the recommended amount of time because they did not have sufficient access to MDCDs. Similarly, almost half of all female college students report difficulty in accessing MDCDs "due to costs or other barriers," and approximately 20% of all female college students report having to choose between purchasing MDCDs or meeting other needs, such as food.[18]

Sales, use, and similar taxes on MDCDs add to their cost. Overall, the aggregate dollar amounts are significant: in 2016, when New York repealed its sales tax on MDCDs three months after the filing of a class action lawsuit claiming that the tax was discriminatory, a press release from the governor's office stated that repeal was "expected to save purchasers roughly $10 million a year."[19] Factually speaking, those who menstruate are not the only ones who buy MDCDs, as anyone might purchase MDCDs for a friend or member of their household. Nevertheless, because of the high cost of MDCDs, including sales and other taxes, it may be that a family must make an impossible choice between purchasing food or MDCDs. In such a situation, it is often the case that the MDCDs will go unpurchased, and those who menstruate will have greater difficulty leaving home with

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access Table A-7, scroll down and click on "Table A-7. Number and Real Median Earnings of Total Workers and Full-Time, Year-Round Workers by Sex and Female-to-Male Earnings Ratio: 1960 to 2022 [< 1.0 MB]"; the table will download as an xlsx file) (showing that the 2022 female-to-male earnings ratio was 0.840).

[15] *See, e.g.*, *Period Poverty*, *supra* note 6, at 1572 (providing an expansive definition of "period poverty" that includes inability to afford MDCDs).

[16] *See* Anne Sebert Kuhlmann et al., *Unmet Menstrual Hygiene Needs Among Low-Income Women*, 133 OBSTETRICS & GYNECOLOGY 238 (2019) [https://perma.cc/4WKX-S5VB].

[17] THINX, PERIOD, STATE OF THE PERIOD: THE WIDESPREAD IMPACT OF PERIOD POVERTY ON US STUDENTS, https://cdn.shopify.com/s/files/1/0795/1599/files/State-of-the-Period-white-paper_Thinx_PERIOD.pdf?455788 (last visited Mar. 8, 2025) [https://perma.cc/9A4J-KETE] [hereinafter STATE OF THE PERIOD]. *See also* MENSTRUATION MATTERS, *supra* note 6, at 69. With the permission of the authors, portions of this paragraph are taken verbatim from this book. For further detail on the lived experiences of menstruating students, *see generally* MENSTRUATION MATTERS, *supra* note 6, at 59–85.

[18] *See* Deb Gordon, *20% of Female College Students Can't Afford Period Products, New Survey Shows*, FORBES (Oct. 10, 2023), https://www.forbes.com/sites/debgordon/2023/10/10/20-of-female-college-students-cant-afford-period-products-new-survey-shows/.

[19] MENSTRUATION MATTERS, *supra* note 6, at 40.

the confidence that they will not bleed through their clothes.[20] Indeed, some scholars and lawyers have argued that sales, use, and other taxes on MDCDs should be understood as a form of impermissible gender discrimination.[21] For these reasons, repealing taxes on MDCDs is necessary to ensure that all people have access to the products they need to manage their menstrual health with dignity.

II. Background and Context of Repeal Efforts

As of June 4, 2025, in the United States, 45 states and the District of Columbia impose some form of sales, use, or similar tax on tangible property sold within their jurisdictions.[22] Various territorial and tribal governments also impose some form of sales, use, or similar taxes,[23] and some local or municipal governments do as well.[24] Before 2016, only five states—Maryland, Massachusetts, Minnesota, New Jersey, and Pennsylvania—

[20] *See id.* at 13 (quoting one mother who had a limited budget saying that, as "between purchasing MDCDs and buying food for the family, the choice was clear: You can make dinner for four people for [a small amount of money]. That seemed so much more important than something that was only for me. [MDCDs] are the first thing that goes under the bus when you're poor.").

[21] *See generally* Bridget J. Crawford & Emily Gold Waldman, *The Unconstitutional Tampon Tax*, 53 U. RICH. L. REV. 439 (2019) [hereinafter *Unconstitutional Tampon Tax*]. With the permission of the authors, portions of this Report are also taken verbatim from the Crawford & Waldman *Unconstitutional Tampon Tax* article. However, in Beggs v. Michigan, No. 20-000149-MT (Mich. Ct. Cl. 2021), the court concluded that imposing sales and use taxes on MDCDs did not violate state or federal constitutional guarantees of equal protection. Prior to the Michigan litigation, there had been four class action challenges to state taxes on MDCDs, each of which alleged gender discrimination without elaboration. *See* Complaint at 1–3, 15, Seibert v. N.Y. State Dep't of Taxation & Fin., No. 151800/2016 (N.Y. Sup. Ct. Mar. 3, 2016); Complaint at 2, Wendell v. Fla. Dep't of Revenue, No. 2016-CA-001526 (Fla. Leon County Ct. 2016); Complaint at 1, 3, DiSimone v. Cal. Dep't of Tax and Fee Admin., 2018 Cal. Super. LEXIS 1814 (Jan. 29, 2018) (No. 16CV293099); Class Action Complaint, Rowitz v. Ohio, No. 16CV003518 (Ohio C.P. Apr. 11, 2016). The complaint in the *Seibert* litigation stated that "Justice Scalia once wrote for the Supreme Court that '[a] tax on wearing yarmulkes is a tax on Jews'" [citing Bray v. Alexandria Women's Health, 506 U.S. 263, at 270 (1993)], and went on to assert that: "A tax on tampons and sanitary pads is a tax on women." *See* Seibert Complaint, *supra*, *quoted in* MENSTRUATION MATTERS, *supra* note 6, at 40. More recently, a third-year law student at the University of Missouri instituted legal action against the state of Missouri seeking a refund of taxes she paid on the purchase of period underwear, alleging that the tax is an unconstitutionally discriminatory tax. Ozoda Saburi, *I'm Suing Missouri to Eliminate the Discriminatory Sales Tax on Menstrual Products,* KAN. CITY STAR (Dec. 20, 2024), https://www.kansascity.com/opinion/readers-opinion/guest-commentary/article297307954.html.

[22] Alaska, New Hampshire, Oregon, Delaware, and Montana are the only states without a sales, use, or similar tax. Alex Raut, *States Without Income Tax Rely on Varying Forms of Revenue*, TAX FOUND. (Apr. 26, 2012), https://taxfoundation.org/states-without-income-taxes-rely-varying-forms-revenue [https://perma.cc/QJ6P-V4R8]. *See also Unconstitutional Tampon Tax*, *supra* note 21, at 445–46 (discussing state sales tax systems).

[23] *See, e.g.*, Pippa Browde, *Sacrificing Sovereignty: How Tribal–State Compacts Impact Economic Development in Indian Country*, 74 HASTINGS L.J. 1 (2022) (describing overlapping state and tribal sales tax systems); Anthony Ciolli, *The Power of United States Territories to Tax Interstate and Foreign Commerce: Why the Commerce and Import-Export Clauses Do Not Apply*, 63 TAX L. 1223 (2010) (evaluating the constitutionality of various taxes enacted by U.S. territories).

[24] *See, e.g.*, Resolution 90A113A (explaining the ABA's recommended standards for state and local tax procedures). Because these local taxes tend to have more limited application, we have not devoted as much emphasis to them, but the Resolution includes them because they are just as constraining for individuals who are subject to them as taxes of broader application.

specifically exempted MDCDs from taxation.[25] Due to advocacy efforts, public awareness campaigns, ballot initiatives, and legislative reforms, an additional 21 states have since repealed their sales, use, or similar taxes on MDCDs since 2016.[26] But as of June 4, 2025, 19 states still tax MDCDs.[27]

Generally, state sales tax systems are structured so that all sales of tangible property are subject to taxation unless the item sold is specifically exempted.[28] Every state that has a sales tax exempts some items, which typically fall into broad categories, such as medicines or groceries. Items typically exempt tend to be "necessities" of basic living, while "luxuries" are subject to taxation.[29] Nevertheless, what qualifies as a "necessity" varies greatly. For example, under Wisconsin law, spermicidal condoms and Viagra are tax exempt, but MDCDs are subject to tax.[30] In Missouri, a third-year law student who initiated litigation to recover sales tax she paid on period underwear observed that the state does not tax "ticket sales to college athletic events, bingo supplies and equipment, aircraft, fencing material for agricultural sites, and film or record rentals . . . which are entirely optional purchases—while continuing to tax residents on products without which they would bleed through their clothes."[31] She further noted that "Missouri's sales tax system suggests that making medical devices accessible to its residents is one of its aims. Currently, hundreds of medical products are exempt from sales tax, ranging from hearing aids to wheelchairs. I believe menstrual products should already be exempt from sales tax because they are medical devices too, as classified by the Food and Drug Administration."[32]

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[25] *Unconstitutional Tampon Tax*, *supra* note 21, at 449 (listing states that did not tax MDCDs as of 2016).
[26] Three states that recently have stopped taxing MDCDs are Alabama, which repealed its tax on May 9, 2025, effective September 1, 2025, Texas, which repealed its tax effective September 1, 2023, and South Carolina, which repealed its tax effective May 13, 2024. Taxation, Sales Tax Exemptions, Sales And Use Tax Exemption Provided For Certain Purchases Of Diapers, Baby Supplies, Baby Formula, Maternity Clothing, And Menstrual Hygiene Products, Alabama Act No. 2025-304; An Exemption from Sales and Use Taxes for Certain Family Care Items, 2023 Tex. Sess. Law Serv. Ch. 1056 (S.B. 379) (West); An Act to Amend the South Carolina Code of Laws by Amending Section 12–36–2120, Relating to Sales Tax Exemptions, so as to Provide for an Exemption for Feminine Hygiene Products, 2024 S.C. Laws Act 131 (H.3563)).
[27] As of June 4, 2025, those states are: Arizona, Arkansas, Georgia, Idaho, Indiana, Kansas, Kentucky, Hawaii, North Carolina, North Dakota, Missouri, Mississippi, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, Wisconsin, and Wyoming. *See Tampon Tax*, ALLIANCE OF PERIOD SUPPLIES, https://allianceforperiodsupplies.org/tampon-tax/ (last visited June 49, 2025) (scroll down to view a map depicting the taxation status of period products in every U.S. state). Although the Missouri legislature has passed repeal legislation, as of June 4, 2025, the governor had not yet signed it. https://house.mo.gov/Bill.aspx?bill=HB594&year=2025&code=R.
[28] *See Unconstitutional Tampon Tax*, *supra* note 21, at 449.
[29] *Id.* at 441.
[30] *See* WIS. STAT. § 77.54(14) (2011 & Supp. 2017) (exempting from sales tax "drugs"); WIS. ADMIN. CODE TAX § 11.09(2)(k) (2018) (defining "drug" for purposes of section 77.54(14) of the Wisconsin Statutes to include "medicated condoms"); *id.* § 11.09(2)(zb) (defining "drugs" to include "prescription medicines").
[31] Ozoda Saburi, *I'm Suing Missouri to Eliminate the Discriminatory Sales Tax on Menstrual Products,* KAN. CITY STAR (Dec. 20, 2024), https://www.kansascity.com/opinion/readers-opinion/guest-commentary/article297307954.html.
[32] *Id.*

On a global level, Kenya was the first country to end taxation of MDCDs, in 2004, and since then at least twenty-six countries have eliminated their value-added tax (VAT) on MDCDs, classified them as zero-rated (i.e., tax-free), or exempted from tax the raw materials used to manufacture them.[33] Those countries include Barbados, Canada, Colombia, Ecuador, Guyana, India, Jamaica, Mexico, Namibia, Saint Kitts & Nevis, Trinidad & Tobago, and the United Kingdom, but most countries on the continents of Europe, Asia, Africa, and South America still tax MDCDs.[34]

III. Why Repealing Taxes on MDCDs Is Appropriate

Taxing MDCDs raises significant policy and legal concerns, particularly with respect to public health and human rights, and perpetuates economic disparities. Given the existence of the well-known gender pay gap in the United States,[35] and the significant racial and ethnic wealth gap,[36] taxes on MDCDs can be understood as contributing to economic disadvantages based on gender, race, and ethnicity. Repealing such taxes therefore advances the ABA's Goal 3, eliminating bias.

A broad sales, use, or similar tax base is desirable when the only goal is to generate maximum revenue. Indeed, states, localities, tribes, and territories generally have broad latitude in setting their tax policies. However, the negative overall impacts of taxes on MDCDs outweigh the revenue they generate. Furthermore, although specifics vary from state to state, revenue lost from tax repeal is not likely to be a significant portion of a state's budget. For example, before repeal of the California state sales tax on MDCDs, the state collected approximately $20 million annually in taxes on sales of these products. While that number might seem large without context, it was, in fact, less than 0.011% of the state's budget.[37] During the 118th Congress, legislation that would make it unlawful for "a State, or unit of local government of a State," to impose a tax on "the retail sale of

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[33] *See What is the Tampon Tax*, *supra* note 3, MENSTRUATION MATTERS, *supra* note 6, at 188-205, and, *Period Poverty, supra* n. 3.

[34] Zero-Rate Tax/Tax Exemption, Periodtax.org, https://periodtax.org/map,lsupra note 3, showing that these countries include Russia, China, Afghanistan, Iran, Iraq, Sudan, Egypt, Algeria, Brazil, Argentina, and Peru; UN Women: Why Millions of Girls and Women Cannot Afford Their Periods, May 24, 2024, https://www.unwomen.org/en/news-stories/explainer/2024/05/period-poverty-why-millions-of-girls-and-women-cannot-afford-their-periods; Alheli Calderon-Villareal, Taxing Women's Bodies: The State of Menstrual Product Taxation in the Americas, https://pmc.ncbi.nlm.nih.gov/articles/PMC10701444/#:~:text=Since%202012%2C%2010%20countries%20and,Mexico%2C%20Ecuador%2C%20and%20Barbados.

[35] *See, e.g.*, *Equal Pay Day*, CENSUS.GOV (Mar. 12, 2024), https://www.census.gov/newsroom/stories/equal-pay-day.html (reporting that in 2024, March 12 would be "Equal Pay Day," which "symbolizes how far into the year women must work to earn what men earned in the previous year.")

[36] DOROTHY A. BROWN, THE WHITENESS OF WEALTH, 18-19 (2022), observing that "White Americans have ten times the median wealth of black Americans and eight times that of Latinx Americans," at 18; *see also, Period Poverty*, *supra* n. 3, describing the impact of period poverty on women of color.

[37] *See Unconstitutional Tampon Tax*, *supra* note 21, at 475 (providing an estimate of the tax "cost" of California's tampon tax repeal).

a menstrual product" was introduced.[38] The introduction of that legislation shows high-level awareness of the injustice of taxing MDCDs.

A. Public and Individual Health Benefits

MDCDs are medical devices, and repealing taxes on them can have important health benefits. First, at least 11 types of MDCDs, including menstrual cups, pads, and tampons, are regulated as medical devices by the U.S. Food and Drug Administration.[39] Second, the American Medical Association considers MDCDs a medical necessity that must be accessible, including financially.[40] Indeed, the House of Delegates of the American Medical Association adopted a resolution (1) recognizing "the adverse physical and mental health consequences of limited access to menstrual products for school-aged individuals" and (2) supporting "the inclusion of medically necessary hygiene products, including, but not limited to, menstrual hygiene products and diapers, within the benefits covered by appropriate public assistance programs."[41] The American College of Physicians ("ACP") has stated that: "Insufficient access to menstrual hygiene products clearly poses a threat to public health. ACP supports public policies that reduce socioeconomic inequalities, address social drivers of health, reduce health disparities, and improve health equity."[42] And the U.S. Internal Revenue Service has issued guidance confirming that MDCDs are medical in nature, stating that "the cost of over-the-counter drugs and also menstrual care products may be paid or reimbursed by an HSA [health savings account], FSA [flexible savings account], Archer MSA, [Archer medical savings account], or HRA [health reimbursement arrangement]."[43] Indeed, some of the states that do not tax MDCDs do so on the ground that they are medical items.[44]

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[38] Stop Taxes Against Menstrual Products ("STAMP") Act of 2024, H.R. 7905, 118th Cong. (2024).

[39] U.S. FDA, *Medical Device Databases: Product Classification Search*, https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPCD/PCDSimpleSearch.cfm (last visited Mar. 4, 2025) (type "menstrual" in the search bar labelled "Search Product Classification" and search).

[40] AM. MED. ASS'N, INCREASING ACCESS TO HYGIENE AND MENSTRUAL PRODUCTS H-525.973 (2021), https://policysearch.ama-assn.org/policyfinder/detail/menstrual?uri=%2FAMADoc%2FHOD.xml-H-525.973.xml; AM. MED. ASS'N, CONSIDERING FEMININE HYGIENE PRODUCTS AS MEDICAL NECESSITIES H-525.974 (2021), https://policysearch.ama-assn.org/policyfinder/detail/Considering%20Feminine%20Hygiene%20Products%20as%20Medical%20Necessities%20H-525.974?uri=%2FAMADoc%2FHOD.xml-H-525.974.xml.

[41] AM. MED. ASS'N, INCREASING ACCESS TO HYGIENE AND MENSTRUAL PRODUCTS H-525.973, supra not 38.

[42] *Advocacy Toolkit: Period Poverty*, AM. COLL. PHYSICIANS (Sept. 27, 2024), https://www.acponline.org/advocacy/state-health-policy/advocacy-toolkit-period-poverty.

[43] INTERNAL REVENUE SERV., *Frequently Asked Questions About Medical Expenses Related to Nutrition, Wellness and General Health*, https://www.irs.gov/individuals/frequently-asked-questions-about-medical-expenses-related-to-nutrition-wellness-and-general-health (last visited Mar. 7, 2025) (answer #13 reads "the cost of over-the-counter drugs and also menstrual care products may be paid or reimbursed by an HSA, FSA, Archer MSA, or HRA"). MDCDs are not deductible for federal income tax purposes because they do not require a prescription, not because they are not a medical item. *Id.*

[44] In New Jersey, tampons or like products are exempt as "medical supplies, equipment." N.J. STAT. ANN. § 54:32B-8.1 (West 2024). Massachusetts considers MDCDs "health care items." *Sales and Use Tax: Health Care Items*, MASS.GOV, https://www.mass.gov/guides/sales-and-use-tax#-tax-exempt-items-&-sales- (last visited Mar. 7, 2025). Interestingly, Maryland taxes all medical supplies but exempts sanitary napkins and tampons as "hygiene aids," perhaps signaling their unique importance. *Medicine and Medical*

As previously discussed, lack of access to MDCDs can force individuals to use unreliable or unsafe alternatives, such as rags, toilet paper, or even newspapers.[45] These makeshift solutions are not only uncomfortable, but they can pose significant health risks, including infections and other serious health issues. For instance, misusing MDCDs by attempting to make them "last longer" or using unclean products can lead to bacterial vaginosis, yeast infections, and even toxic shock syndrome, a potentially life-threatening condition.[46] From a public health standpoint, eliminating sales, use, and other taxes on MDCDs will make them more affordable and lead to broader improvements in community health, saving money for the healthcare system, which would otherwise shoulder the costs of health issues caused by non-use or misuse of MDCDs. As MDCDs become more available to low-income people, better menstrual management practices will follow, reducing the prevalence of infections and the associated healthcare costs.

Access to more affordable MDCDs will benefit individuals' mental health, too. Stress and anxiety associated with efforts to manage menstruation without adequate resources can exacerbate mental health issues, leading to increased absenteeism from school and work. This absenteeism has broader economic implications, because it may affect educational and employment opportunities for those who menstruate—both individually and as a group. The improved access to MDCDs facilitated by the repeal of sales and similar taxes will help mitigate these issues, enhancing well-being and fostering a healthier, more productive, and more inclusive society.[47]

B. Economic Impact

Any discussion of repealing a tax requires consideration of both the legal and the economic incidence of repeal. That is, a complete analysis requires attention to who reaps the benefit of repeal. The legal incidence of repealing a sales tax is easy to identify—it falls on the person relieved of the need to pay the tax. In the case of a sales tax, that person is the consumer; the vendor remits the tax to the government, but the amount remitted is the tax the consumer paid on the retail price of the item purchased.

Determining the economic incidence of repeal is more complicated. Specifically, who reaps the financial benefit of repeal of sales and similar taxes on MDCDs? The consumer

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Equipment, COMPTROLLER OF MD., https://www.marylandtaxes.gov/business/sales-use/special-situations/medicine-medical-equipment.php (last visited Mar. 7, 2025) (click the blue bar titled "Medicine" to show the relevant text).

[45] *See, e.g.*, MENSTRUATION MATTERS, *supra* note 6, at 13 (quoting an unhoused individual interviewed at the Women's Free Homeless Clinic in Santa Barbara, California, who recounted that when she could not afford tampons or pads, she would "[s]tick rags up in there. Maybe find an old shirt alongside a road and stick it up in there. I've done that.")

[46] *See, e.g.*, Kylie Schuyler, *The Devastating Consequences of Period Poverty for Girls*, GLOBAL GIRLS GLOW (July 16, 2020), https://globalgirlsglow.org/the-devastating-consequences-of-period-poverty-for-girls/; Ashley Rapp & Sidonie Kilpatrick, *Changing the Cycle: Period Poverty as a Public Health* Crisis, U. MICH. SCH. PUB. HEALTH: PURSUIT (Feb. 4, 2020), https://sph.umich.edu/pursuit/2020posts/period-poverty.html.

[47] *See* MENSTRUATION MATTERS, *supra* note 6, at 14–15, 69–70 (describing menstruation-related school absenteeism by students from families of all income levels and discussing the shame associated with being unable to afford MDCDs).

would reap the benefit if the price stayed the same as it was before repeal, but retailers or manufacturers could capture some or all of the benefit if repeal allows them to increase the sale price.[48]

Although the empirical evidence on the economic incidence of U.S.-based sales taxes on MDCDs is not robust, studies suggest that the consumer also captures the economic benefit of repeal.[49] Furthermore, lower-income consumers, who disproportionately are women, reap a higher proportionate benefit from repeal than higher-income consumers. Therefore, available evidence strongly suggests that repeal will contribute to alleviating period poverty in the United States. Although the experience outside the United States is not as felicitous, work continues to adopt measures to ensure that the benefit of repeal is captured by the consumer.[50]

C. Expressive Benefits

Even if repeal of taxes on MDCDs did not provide health benefits, reduce period poverty, or shrink gender-based financial disparities, it would be worth doing. As Professors Cotropia and Rozema have pointed out, the "expressive value" of repealing taxes on MDCDs provides a compelling justification for repeal: "[E]ven if the economic benefits of the tax repeal were not borne by consumers, repealing these taxes on menstrual products could promote women's health and gender equality by changing attitudes and removing stigmas. The symbolism of the tax may itself partly be the goal of advocates of a tampon tax repeal."[51] In other words, repeal of sales, use, and similar taxes on MDCDs acknowledges menstruation as an inevitable aspect of life for approximately half the

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[48] Traditional economic theory suggests that the absence of a tax will expand the market and enable manufacturers and retailers to sell more MDCDs, thereby increasing their profitability. Competition for business between the various manufacturers and retailers should ensure that the majority of the benefit of the absence of tax flows to consumers.

[49] Christopher A. Cotropia & Kyle Rozema, *Who Benefits from Repealing Tampon Taxes? Empirical Evidence from New Jersey*, 15 J. EMPIRICAL LEGAL STUD. 620 (2018). Professors Cotropia and Rozema "use[d] the 2005 elimination of menstrual hygiene products from the sales tax base in New Jersey as a natural experiment to study who benefits from the repeal of tampon taxes. [They found] that the tax break is fully shifted to consumers, but that the tax break is not distributed equally, with the price reduction disproportionately affecting low-income women." *Id.* at 620. *Cf.* Áine Doris, *What Happened When a US State Scrapped the Tampon Tax*, CHI. BOOTH REV. (Mar. 23, 2021), https://www.chicagobooth.edu/review/what-happened-when-us-state-scrapped-tampon-tax (discussing work by Ziyue Xu that suggests that repealing taxes on MDCDs "isn't an efficient way to help women, particularly lower-income women"). That there may be more efficient ways to make MDCDs more affordable, such as by making them free, does not mean that repealing taxes on MDCDs is not worthwhile. Experience has shown that repeal is achievable and effective.

[50] *See,* Diana Baptista, Nita Bhalla, and Lin Tayor, *How The Fight Against The Tampon Tax Failed To Fix Period Poverty,* https://www.reuters.com/article/markets/commodities/long-read-how-the-fight-against-the-tampon-tax-failed-to-fix-period-poverty-idUSL1N34I248/ (May 24, 2023).

[51] Cotropia & Rozema, *supra* note 49, at 640 (citations omitted). Other researchers agree. *See, e.g.*, LAURA ROSSOUW & HANA ROSS, AN ECONOMIC ASSESSMENT OF MENSTRUAL PRODUCT TAX CUTS (2020) at 24, https://gatesopenresearch.org/documents/4-137 (observing that "[e]ven if the economic benefits of the tax repeal are not borne by consumers, repealing [menstrual health] product taxes advances gender equality and protects women's health.").

population, who are disproportionately burdened by taxes on the products they must buy to function in society while menstruating.

Treating MDCDs as the necessities they are by exempting them from taxation sends a powerful message about health, human rights, and gender equality: The United Nations,[52] the World Bank,[53] the World Health Organization ("WHO"),[54] and other leading international institutions and organizations[55] have all expressly acknowledged the problem of period poverty (including access to MDCDs); and menstrual health has been recognized as a fundamental human right.[56] Indeed, the issue of menstrual health has been specifically tied to a number of the United Nations' Sustainable Development Goals.[57] In addition, eliminating taxes on MDCDs not only aligns with social justice goals

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[52] High Commissioner for Human Rights statement on menstrual health (Office of the U.N. High Commissioner for Human Rights, June 21, 2022), https://www.ohchr.org/en/statements-and-speeches/2022/06/high-commissioner-human-rights-statement-menstrual-health; Period Poverty – why millions of girls and women cannot afford their periods (U.N. Women, May 24, 2024), https://www.unwomen.org/en/news-stories/explainer/2024/05/period-poverty-why-millions-of-girls-and-women-cannot-afford-their-periods; Gender Equality and Taxation (U.N. Development Programme, Dec. 17, 2015), https://www.undp.org/publications/gender-equality-and-taxation; Menstrual Health and Dignity Commitment (U.N. Dep't of Economic & Social Affairs, March 24, 2023), https://sdgs.un.org/partnerships/menstrual-health-and-dignity-commitment; Menstruation and human rights - Frequently asked questions (U.N. Population Fund ("UNFPA"), May 2022), https://www.unfpa.org/menstruationfaq; Period Poverty: Impact of Taboos and Barriers on Information and Resources for Menstrual Health and Hygiene. (UNICEF, 2023), https://www.unicef.org/mena/media/24606/file/%20Period%20Poverty.pdf.

[53] 10 years of Menstrual Hygiene Day: Together for a #PeriodFriendlyWorld (World Bank/Blog, May 28, 2024), https://blogs.worldbank.org/en/water/10-years-of-menstrual-hygiene-day--together-for-a--periodfriendl; Why #WeAreCommitted to improving menstrual health and hygiene (World Bank/Blog, May 30, 2023), https://blogs.worldbank.org/en/water/why-wearecommitted-improving-menstrual-health-and-hygiene.

[54] WHO statement on menstrual health and rights (World Health Organization ("WHO"), June 22, 2022), https://www.who.int/news/item/22-06-2022-who-statement-on-menstrual-health-and-rights; Menstrual health is a fundamental human right (World Health Organization ("WHO"), Aug. 15, 2024), https://www.who.int/europe/news/item/15-08-2024-menstrual-health-is-a-fundamental-human-right.

[55] *See*, *e.g.*, How menstrual health can be a catalyst for gender equality and sustainable development (World Economic Forum, Jan. 16, 2025), https://www.weforum.org/stories/2025/01/menstrual-health-and-sustainable-development/; The unsanitary truth about period poverty – and what governments can do (World Economic Forum, June 9, 2022), https://www.weforum.org/stories/2022/06/period-poverty-pain-stigma/.

[56] Menstrual health is a fundamental human right (World Health Organization ("WHO"), Aug. 15, 2024), https://www.who.int/europe/news/item/15-08-2024-menstrual-health-is-a-fundamental-human-right; Menstrual health is a public health and human rights issue (The Lancet, Jan. 2022),https://www.thelancet.com/journals/lanpub/article/PIIS2468-2667(21)00212-7/fulltext; Menstruation and human rights - Frequently asked questions (U.N. Population Fund ("UNFPA"), May 2022), https://www.unfpa.org/menstruationfaq.

[57] Relevant Sustainable Development Goals ("SDGs") include SDG 1 ("No Poverty"), SDG 3 ("Good Health & Well-Being"), SDG 4 ("Quality Education"), SDG 5 ("Gender Equality"), SDG 6 ("Clean Water & Sanitation"), SDG 8 ("Decent Work & Economic Growth"), SDG 10 ("Reduced Inequalities"), and SDG 12 ("Responsible Consumption & Production"). See, *e.g.,* How menstrual health can be a catalyst for gender equality and sustainable development (World Economic Forum, Jan. 16, 2025), https://www.weforum.org/stories/2025/01/menstrual-health-and-sustainable-development/; The Global Impact of Period Poverty (GW Reproductive Freedom, Feb. 9, 2023), https://blogs.gwu.edu/elliott-reproductive-freedom/the-global-impact-of-period/.

and the ABA's Goal 3 commitment to eliminating bias and enhancing diversity within the legal profession and society at large, but it also operationalizes the "Right to a Fair and Just Tax System," which is provided by the Taxpayer Bill of Rights codified in 26 U.S.C. § 7803(a)(3) and adopted by many states, and by the taxpayer rights charters adopted by many countries.[58]

IV. Conclusion

Repealing sales, use, and similar taxes on MDCDs will increase affordability and, hence, access to them. It will benefit a broad segment of the population, especially those who are economically disadvantaged or otherwise vulnerable and who struggle to afford essential health products. At the same time, repealing these taxes will create a more equitable tax system and promote justice, including economic and health justice, for all. Adopting this Resolution would advance Goal 3—Eliminate Bias and Enhance Diversity—and Goal 4—Advance the Rule of Law—by empowering the Association to advocate for the repeal of sales, use, and similar taxes on MDCDs in the United States and throughout the globe.

Respectfully submitted,

Alice G. Abreu, Chair
Section of Taxation

Lacy L. Durham, Chair
Section of Civil Rights and Social Justice

Jeremee Henry, Chair
Law Student Division

Michael Santos, Chair
Commission on Homelessness and Poverty

Yee Wah Chin, Chair
International Law Section

Karol Corbin Walker, Chair
Commission on Women in the Profession

Wendy Shiba, Chair
Diversity, Equity, and Inclusion Center

Lai Sun Yee, Chair
Section of State and Local Government Law

August 2025

[58] 26 U.S.C. § 7803(a)(3)(j). *See generally* Alice G. Abreu & Richard K. Greenstein, *Embracing the TBOR*, 157 TAX NOTES 1281 (2017). For a description and discussion of state Taxpayer Bill of Rights, *see* Peter Faber, *Using Taxpayer Bill of Rights Laws*, 85 STATE TAX NOTES 947 (2017); Alice G. Abreu & Richard K. Greenstein, *Listen to Peter: Embrace the TBORs*, 87 STATE TAX NOTES 491 (2018). Ian Young, *Taxpayer Rights and the Role of a Taxpayer Rights Charter,* Sept. 21, 2017, https://info.taxnotes.com/conferencepapers_the_role_of_a_taxpayers_charter_0818#:~:text=taxes%20on%20time.-,Conf%C3%A9d%C3%A9ration%20Fiscale%20Europ%C3%A9enne,honesty.

507

GENERAL INFORMATION FORM

Submitting Entities: Section of Taxation, Section of Civil Rights and Social Justice, International Law Section, Section of State and Local Government Law, Diversity, Equity, and Inclusion Center, Law Student Division, Commission on Homelessness and Poverty, and Commission on Women in the Profession.

Submitted By: Alice G. Abreu, Chair, Section of Taxation, Lacy L. Durham, Chair, Section on Civil Rights and Social Justice, Yee Wah Chin, Chair, International Law Section, Lai Sun Yee, Chair, Section of State and Local Government Law, Wendy Shiba, Chair, Diversity, Equity, and Inclusion Center, Jeremee Henry, Chair, Law Student Division, Michael Santos, Chair, Commission on Homelessness and Poverty, and Karol Corbin Walker, Commission on Women in the Profession.

1. Summary of the Resolution.

   The Resolution urges the repeal of state, local, territorial, and tribal sales, use, or similar taxes on menstrual discharge collection devices ("MDCDs"), urges Congress to support efforts to repeal sales, use, or similar taxes imposed by state, local, territorial, and tribal governments on MDCDs, and urges all foreign jurisdictions to repeal taxes on MDCDs.

2. Indicate which of the ABA's four goals the resolution seeks to advance (1-Serve our Members; 2-Improve our Profession; 3-Eliminate Bias and Enhance Diversity; 4-Advance the Rule of Law) and provide an explanation on how it accomplishes this.

   This Resolution seeks to advance Goal 3—Eliminate Bias and Enhance Diversity—and Goal 4—Advance the Rule of Law—by working for just, nondiscriminatory laws that protect human rights and promote a fair legal process.

3. Approval by Submitting Entities.

   The Resolution was approved by the Council of the Section of Taxation on March 20, 2025, by the Council of the Commission on Homelessness and Poverty on April 1, 2025, by the Council of the Law Student Division on April 7, 2025, by the Council of the Section of Civil Rights and Social Justice on April 17, 2025, by the Council of the International Law Section on May 30, 2025, by the Commission on Women in the Profession on June 2, 2025, by the Diversity, Equity, and Inclusion Center on June 4, 2025, and by the Council of the Section of State and Local Government Law on June 9, 2025.

4. Has this or a similar resolution been submitted to the House or Board previously?

   Yes. Resolution 500 was submitted for consideration at the 2025 Midyear Meeting, but was withdrawn at that meeting so that the sponsors could discuss the resolution, and address any concerns raised by other members of the House of Delegates.

5. What existing Association policies are relevant to this Resolution and how would they

be affected by its adoption?

Relevant ABA policies, including 72M56, 72A19, 74A135, 78M101A, 80A109A, 84M103A, 90M108, 4M105, 09A10A, 16M10B, 19A115A, 20A116C, 21A511, 21M105, 24A504, 24A505, and 24A601, demonstrate the Association's longstanding commitment to promote and protect access to quality health care and to protect the right of women and girls to freedom from gender-based discrimination. By removing one component of the cost of MDCDs, the proposed Resolution promotes access to the quality healthcare that MDCDs provide, prevents discrimination on the basis of gender, and acknowledges the unique needs of all who menstruate, thus amplifying the intention and impact of the foregoing Association policies.

6. If this is a late report, what urgency exists which requires action at this meeting of the House?

   Not applicable.

7. Status of Legislation.

   Federal legislation that would make it unlawful for states or units of local governments to impose a tax on such products (the Stop Taxes Against Menstrual Products (STAMP) Act of 2024 (H.R. 7905)) was introduced in the 118th Congress.

   At the state level in the United States, as of March 2025, there were 154 items of pending legislation that aim to repeal taxes on MDCDs or provide for menstrual equity in other ways, one of which was enacted on May 9, 2025, effective September 1, 2025. In Missouri, repeal legislation had passed the legislature but had not been adopted as of June 4, 2025. https://house.mo.gov/Bill.aspx?bill=HB594&year=2025&code=R.

   The legislative proposals can be found at: https://allianceforperiodsupplies.org/period-legislation/.

8. Brief explanation regarding plans for implementation of the policy, if adopted by the House of Delegates.

   The sponsoring entities will work with relevant stakeholders and the ABA Governmental Affairs Office to ensure implementation of the Resolution by supporting repeal of sales and similar taxes on MDCDs by those jurisdictions that impose them and supporting federal efforts in furtherance thereof.

9. Cost to the Association. (Both direct and indirect costs)

   None.

10. Disclosure of Interest.

    Not applicable.

507

11. Referrals.

    Conference of Chief Justices
    Section of Business Law
    Section of Family Law
    Section of Government & Public Sector Lawyers
    Section of Health Law
    Section of Legal Education and Admissions to the Bar
    Section of Real Property, Trust, and Estate Law
    Solo, Small Firm and General Practice Division
    Young Lawyers Division

12. Name and Contact Information (Prior to the Meeting. Please include name, telephone number and e-mail address).

    Julie Sassenrath, Delegate, Section of Taxation
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    Mark I. Schickman, Delegate, Section of Civil Rights & Social Justice
    Tel.: (510) 467-2909
    Email: mark@schickmanlaw.com

13. Name and Contact Information (Who will present the Resolution with Report to the House).

    Julie Sassenrath, Delegate, Section of Taxation
    Tel.: (214) 315-4083
    Email: julie@sassenrathlaw.com

EXECUTIVE SUMMARY

1. Summary of the Resolution.

This Resolution urges the repeal of existing taxes on menstrual discharge collection devices ("MDCDs"), imposed by governments in the United States as well by governments in foreign jurisdictions.

2. Summary of the issue that the Resolution addresses.

This Resolution addresses "period poverty," or the inability to afford MDCDs, as well as the detrimental health consequences thereof. Period poverty and its detrimental health effects result in absenteeism from school and work and other adverse physical and mental health consequences that have been recognized by physician organizations. Period poverty produces stress, is especially prevalent in vulnerable communities and can disproportionately affect members of racial and ethnic minority groups. It can cause menstruating individuals and those close to them to have to choose between purchasing MDCDs or other necessities, such as food.

3. Please explain how the proposed policy position will address the issue.

Repealing taxes on MDCDs will lower their cost, thereby easing period poverty. It will also raise awareness of the problem of period poverty, perhaps inducing other reforms that will make MDCDs more accessible, especially to members of vulnerable communities.

4. Summary of any minority views or opposition internal and/or external to the ABA which have been identified.

None.